IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1729 OF 2007

Lalasaheb R. Potekar ....Petitioner
V/s.
Smt.Nanda L. Potekar & Ors. ....Respondents

Mr.K.B. Sonwalkar for the Petitioner.

Mr.H.P. Ghadigaorkar for Respondent Nos.1 and 2.

Ms.P.S. Gardozo, AGP for Respondent No.5.

CORAM : S.J. VAZIFDAR, J.
DATED : 11TH JULY, 2007.

P.C. :

1. Rule. Rule made returnable forthwith and heard.

2. The contesting parties are Respondent Nos.1 and 2. I therefore proceed to decide the Writ Petition at the admission stage as Respondent Nos.1 and 2 are present in Court.

3. The Petitioner has challenged the order dismissing his application for condonation of delay of 60 days in filing an Appeal against the order dated 9.3.2006 passed by the Civil Judge (S.D.) Satara.

4. I do not suggest that the order is unsustainable. However, in the facts and circumstances of this case, the ends of justice would be met by condoning the delay and affording the Petitioner an opportunity of having his Appeal before the learned District Judge, Satara heard on merits. This is for the reason that the property has been ordered to be sold to recover an amount of Rs.6,00,000/- which is due and payable towards the arrears of maintenance of Respondent Nos.1 and 2 i.e. the mother and the minor child of the Petitioner. The property that has been ordered to be sold, prima-facie appears to be in value far in excess of Rs.6,00,000/-. The property is an agricultural property. In the event of the entire property being sold, it would seriously prejudice the Petitioner. Various aspects including as to the extent of the property necessary to be sold to comply with the order of maintenance, would require to be considered.

5. Further, prima-facie at least it does appear that there was a reasonable ground for condonation of delay on account of the illness of the Petitioner. However, considering what I have stated above, it is not necessary to opine on this aspect finally.

6. In the circumstances, Rule is made absolute by setting aside the impugned order dated 30.11.2006 passed on Misc.C.A. No.85 of 2006. The learned District Judge, Satara is requested to hear the Petitioner's Application on merits and as expeditiously as possible. The Petitioner undertakes not to make any application for adjournment. The parties shall in the first instance appear before the learned District Judge, Satara on 30.7.2007. The Petitioner shall serve a copy of this order to all the Respondents forthwith.

. Parties to act on an ordinary copy of this order duly authenticated by the Associate of this Court.